UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MANSFIELD MEMORIAL HOMES,	)	**Case No. 1:12 CV 42**
	)	
Plaintiff,	)	**Judge Dan Aaron Polster**
	)	
vs.	)	**MINUTES OF TELECONFERENCE,**
	)	
U.S. DEP'T OF HEALTH AND HUMAN SERVICES, et al.,	)	**SCHEDULING ORDER, and**
	)	
	)	**ORDER DENYING TRO MOTION**
Defendants.	)	

On January 6, 2012, Plaintiff Mansfield Memorial Homes ("''Mansfield"), a long-term care facility certified by Medicare to provide skilled nursing services, filed a Verified Complaint against Defendants United States Department of Health and Human Services ("HHS"), the Centers for Medicare and Medicaid Services ("CMMS"), AdvanceMed, LLC ("AdvanceMed"), CGS Administrators, LLC ("CGS"), the United States Department of Treasury ("Treasury"), and Financial Management Services ("FMS"). (Doc #: 1.) Therein, Mansfield alleged the following facts.

In April 2008, Mansfield was notified by AdvanceMed that it was going to conduct an audit in response to a complaint it received that Mansfield had improperly billed Medicare for therapy services not actually provided. (Id. ¶ 11.) The audit, which covered the period January 2006 through October 2007, resulted in a determination in December 2009 that Mansfield was overpaid approximately $497,000 by Medicare during the covered period. This ruling gave rise to a volley of appeals (i.e., a reconsideration, a redetermination, two administrative appeals, hearings and rulings by Administrative Law Judges ("ALJ")) and repayments by Mansfield totaling approximately $247,000. The latest ALJ order, issued on September 29, 2011, required Defendant CGS to recalculate, within 30 days, the amount allegedly owed by Mansfield to Medicare. When CGS failed to timely recalculate the amount owed, Mansfield had its own statistical expert calculate the amount owed and concluded that Medicare owed Mansfield approximately $61,000. Even though Mansfield believes it is owed money, Defendants withheld approximately $265,000 in November and December from Mansfield's Medicare Part A and Part B vendors for services already rendered, and have represented that they will continue to withhold money.

As a result of Defendants' alleged wrongful conduct, Mansfield filed the pending Verified Complaint alleging due process and breach of contract claims, and seeking declaratory and injunctive relief. (Doc #: 1.) Mansfield simultaneously filed a Motion for Temporary Restraining Order ("TRO Motion") asking the Court to enjoin Defendants from continuing to offset monies allegedly due, and from withholding the Medicare payments. (Doc #: 2.) Mansfield asks the Court to restore any funds withheld since the September 29, 2011 ALJ ruling. (Id.)

On January 9, 2012, the Court held a teleconference with Attorneys G. Brenda Coey (for Plaintiff Mansfield), Lisa Hammond Johnson (for Defendants HHS, CMMS, Treasury and FMS), Kendall Walker (for Defendant CGS) and Gloria Frank (for Defendant AdvanceMed). At that time, Attorney Coey informed the Court that on January 10, 2012, Mansfield will be submitting a bill to Medicare for services rendered in the month of December 2011. The Court suggested that there be no more withholding of Medicare payments until the recalculation is complete and amounts due are finally decided. Attorney Johnson advised the Court that the withholding of Medicare payments has been recalled effective January 10, 2012, and asked for a two-week period to investigate Mansfield's allegations.

As a result of discussions, the parties agreed to hold an in-person conference with the Court at **2:00 p.m. on Monday January 23, 2011**. In anticipation of that conference, the Court directed counsel to file a status report **no later than 12 noon on Friday, January 20, 2012**. As counsel are attempting to resolve this dispute within the next two weeks, the Motion for TRO (**Doc #: 2**) is **DENIED**. In the interim, all Medicare billings submitted by Mansfield are to be paid in the ordinary course of business.

IT IS SO ORDERED.

/s/ Dan A. Polster January 10, 2012
Dan Aaron Polster
United States District Judge